

contract. In all cases, lives shall be extended to reflect odds, if any, when assets were not used in or as a facility.

(2) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement.

(3) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(4) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation. [1980 c 177 § 37.]

74.46.380 Depreciable assets. (1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken. [1993 sp.s. c 13 § 5; 1991 sp.s. c 8 § 12; 1980 c 177 § 38.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

74.46.390 Gains and losses upon replacement of depreciable assets. If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. [1980 c 177 § 39.]

See E 25 HB 1908, See 97

74.46.410 Unallowable costs. (1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in care services established by the department under this chapter;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290 on and after January 1, 1985;

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the cost-related reimbursement system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish that reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established that there was no likelihood of recovery at any time in the future;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of key-man insurance and other insurance or retirement plans not made available to all employees;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses of maintaining professional licenses or membership in professional organizations;

(bb) Costs related to agreements not to compete;

(cc) Amortization of goodwill;

(dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

Nursing Home Accounting and Cost Reimbursement Act of 1980

74.46.410

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;

(ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) All rental or lease costs other than those provided in RCW 74.46.300 on and after January 1, 1985;

(ii) Postsurvey charges incurred by the facility as a result of subsequent inspections under RCW 18.51.050 which occur beyond the first postsurvey visit during the certification survey calendar year;

(jj) Compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period;

(kk) For all partial or whole rate periods after July 17, 1984, costs of land and depreciable assets that cannot be reimbursed under the Deficit Reduction Act of 1984 and implementing state statutory and regulatory provisions. [1993 sp.s. c 13 § 6; 1991 sp.s. c 8 § 15; 1989 c 372 § 2; 1986 c 175 § 3; 1983 1st ex.s. c 67 § 17; 1980 c 177 § 41.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

Effective date—1989 c 372 § 2: "Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 372 § 19.] This note refers to the 1989 c 372 amendment to RCW 74.46.410.

PART E RATE SETTING

See E 2 SHB, See 99

74.46.420 Principles of rate setting. The following principles are inherent in RCW 74.46.430 through 74.46.590:

(1) Reimbursement rates will be set prospectively on a per patient day basis on a two-year cycle corresponding to each state biennium; and

(2) The rates, in the nursing services, food, administrative, and operational cost centers, shall be adjusted downward or upward when set effective July 1 of the first fiscal year of the two-year rate-setting cycle and adjusted again downward or upward effective July 1 of the second fiscal year of the rate-setting cycle for economic trends and conditions.

(3) The July 1 rates for the first year of each biennium shall be adjusted by the change in the implicit price deflator for personal consumption expenditures index published by the bureau of labor statistics of the United States department of labor. The period used to measure the increase or decrease to be applied to these first year biennial rates shall be the calendar year preceding the July 1 commencement of the state biennium.

(4) The July 1 rates for the second year of each biennium shall be adjusted by the change in the nursing home

input price index without capital costs published by the health care financing administration of the department of health and human services. HCFA index, however, any increase shall be multiplied by one and one-half. The period used to measure the HCFA index increase to be multiplied by one and one-half and applied or decrease to be applied to these second-year biennial rates shall also be the calendar year preceding the July 1 commencement of the state biennium: PROVIDED, However, That in the event the change in the HCFA index measured over the following calendar year, the one terminating six months after the start of the state biennium, is twenty-five percent greater or less than the change in the HCFA index measured over the calendar year preceding commencement of the state biennium, the department shall use the HCFA index increase multiplied by one and one-half or decrease in such following calendar year to inflate or decrease nursing facilities' nursing services, food, administrative, and operational rates for July 1 of the second biennial year.

(5) If either the implicit price deflator index or the health care financing administration index ceases to be published in the future, the department shall select by rule and use in their place one or more measures of change from an alternate source or sources for the same or comparable time periods. [1993 sp.s. c 13 § 7; 1985 c 361 § 18; 1983 1st ex.s. c 67 § 18; 1980 c 177 § 42.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Savings—1985 c 361: See note following RCW 74.46.020.

See E 2 SHB, See 100

74.46.430 Prospective reimbursement rates—Minimum hourly wages. (1) The department, as provided by this chapter, will determine prospective cost-related reimbursement rates for services provided to medical care recipients. Each rate so determined shall represent the contractor's maximum compensation within each cost center for each patient day for such medical care recipient.

(2) As required, the department may modify such maximum per patient day rates pursuant to the administrative review provisions of RCW 74.46.780.

(3) The maximum prospective reimbursement rates for the administrative, operational, and property cost centers, and the return on investment rate shall be established based upon a minimum facility occupancy level of eighty-five percent.

(4) All contractors shall be required to adjust and maintain wages for all employees to a minimum hourly wage of four dollars and seventy-six cents per hour beginning January 1, 1988, and five dollars and fifteen cents per hour beginning January 1, 1989. [1993 sp.s. c 13 § 8; 1987 2nd ex.s. c 1 § 2; 1987 c 476 § 2; 1983 1st ex.s. c 67 § 19; 1980 c 177 § 43.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

74.46.440 Limitation of services subject to cost reimbursement—Exception. Only those services which are authorized for a facility pursuant to the medical care program shall be reimbursed under this chapter. Services provided by institutions for mental diseases shall not be reimbursed under this chapter. [1989 c 372 § 16; 1980 c 177 § 44.]

74.46.450

Title 74 RCW:

~~See E2SHB 1908, Sec 101~~**74.46.450 Reimbursement rate for new contractor.**

(1) Prospective reimbursement rates for a new contractor will be established within sixty days following receipt by the department of the properly completed projected budget required by RCW 74.46.670. Such reimbursement rates will become effective as of the effective date of the contract and shall remain in effect until adjusted or reset as provided in this chapter.

(2) Such reimbursement rates will be based on the contractor's projected cost of operations and on costs and payment rates of the prior contractor, if any, or of other contractors in comparable circumstances.

(3) If a properly completed budget is not received at least sixty days prior to the effective date of the contract, the department will establish preliminary rates based on the other factors specified in subsection (2) of this section. These preliminary rates will remain in effect until adjusted or reset as provided in this chapter.

(4) The department is authorized to develop policies and procedures in rule to address the computation of rates for the first and second fiscal years of each biennium, including steps necessary to prorate rate adjustments for economic trends and conditions as authorized in RCW 74.46.420, for contractors having less than twelve months of cost report data for the prior calendar year. [1993 sp.s. c 13 § 9; 1983 1st ex.s. c 67 § 20; 1980 c 177 § 45.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

~~See E2SHB 1908, Sec 102~~**74.46.460 Rate determination or adjustment—**

When—Basis. (1) Each contractor's reimbursement rates will be determined or adjusted prospectively at least once each calendar year, as provided in this chapter, to be effective July 1st. Provided, that a contractor's rate for the first fiscal year of each biennium must be established upon its own prior calendar period report of at least six months of cost data.

(2) Rates may be adjusted as determined by the department to take into account variations in the distribution of patient classifications or changes in patient characteristics from the prior reporting year, program changes required by the department, or changes in staffing levels at a facility required by the department. Rates may also be adjusted to cover costs associated with placing a nursing home in receivership which costs are not covered by the rate of the former contractor, including: Compensation of the receiver, reasonable expenses of receivership and transition of control, and costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found. Rates shall be adjusted for any capitalized additions or replacements made as a condition for licensure or certification. Rates shall be adjusted for capitalized improvements done under RCW 74.46.465. [1993 sp.s. c 13 § 10; 1987 c 476 § 3; 1985 c 361 § 15; 1983 1st ex.s. c 67 § 21; 1981 1st ex.s. c 2 § 5; 80 c 177 § 46.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Savings—1985 c 361: See note following RCW 74.46.020.

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 18.51.010

74.46.465 Rate adjustment for physical plant capital improvements. (1) The department, in consultation with

interested parties, shall adopt rules to establish criteria the department will use in reviewing any request by a contractor for a prospective rate adjustment for a physical plant capital improvement. The rules shall also specify the time periods for submission and review of proposed physical plant capital improvements. In establishing the criteria, the department may consider, but is not limited to, the following:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of renovation or remodel to the facility and whether the facility will be able to serve better the needs of its residents;

(c) Whether the proposed improvement improves the quality of the living conditions of the residents;

(d) Whether the proposed improvement might eliminate life safety, building code, or construction standard waivers;

(e) The percentage of public-pay residents in the facility.

(2) Rate adjustments under this section may be provided only if funds are appropriated for this purpose. [1987 c 476 § 8.]

~~See E2SHB 1908, Sec 103~~

74.46.470 Cost centers. (1) A contractor's reimbursement rates for medical care recipients will be determined utilizing net invested funds and desk-reviewed cost report data within the following cost centers:

(a) Nursing services;

(b) Food;

(c) Administrative;

(d) Operational; and

(e) Property.

(2) There shall be for the time period January 1988 through June 1990 only an enhancement cost center established to reimburse contractors for specific legislatively authorized enhancements for nonadministrative wages and benefits to ensure that such enhancements are used exclusively for the legislatively authorized purposes. For purposes of settlement, funds appropriated to this cost center shall only be used for expenditures for which the legislative authorization is granted. Such funds may be used only in the following circumstances:

(a) The contractor has increased expenditures for which legislative authorization is granted to at least the highest level paid in any of the last three cost years, plus, beginning July 1, 1987, any percentage inflation adjustment as was granted each year under *RCW 74.46.495; and

(b) All funds shifted from the enhancement cost center are shown to have been expended for legislatively authorized enhancements.

(3) If the contractor does not spend the amount appropriated to this cost center in the legislatively authorized manner, then the amounts not appropriately spent shall be recouped at preliminary or final settlement pursuant to RCW 74.46.160.

(4) For purposes of this section, "nonadministrative wages and benefits" means wages and payroll taxes paid with respect to, and the employer share of the cost of benefits provided to, employees in job classes specified in an appropriation, which may not include administrators, assistant administrators, or administrators in training.

(5) Amounts expended in the enhancement cost center in excess of the minimum wage established under RCW 74.46.430 are subject to all provisions contained in this chapter. [1993 sp.s. c 13 § 11; 1987 c 476 § 4; 1983 1st ex.s. c 67 § 22; 1980 c 177 § 47.]

*Reviser's note: RCW 74.46.495 was repealed by 1993 sp.s. c 13 § 19, effective July 1, 1993.

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

74.46.475 Submitted cost report—Analysis and adjustment by department. (1) The department shall analyze the submitted cost report of each contractor to determine if the information is correct, complete, and reported in conformance with generally accepted accounting principles, the requirements of this chapter and such rules and regulations as the secretary may adopt. If the analysis finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing reimbursement rates. A schedule of such adjustments shall be provided to contractors and shall include an explanation for the adjustment and the dollar amount of the adjustment. Adjustments shall be subject to review and appeal as provided in this chapter.

(2) The department shall accumulate data from properly completed cost reports for use in:

- (a) Exception profiling; and
- (b) Establishing rates.

(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as necessary. [1985 c 361 § 13; 1983 1st ex.s. c 67 § 23.]

Savings—1985 c 361: See note following RCW 74.46.020.

See E2SHB1908, Sec 104
74.46.481 Nursing services cost center reimbursement rate. (1) The nursing services cost center shall include for reporting and audit purposes all costs related to the direct provision of nursing and related care, including fringe benefits and payroll taxes for the nursing and related care personnel, and the cost of nursing supplies. The department shall adopt by administrative rule a definition of "related care". For rates effective after June 30, 1991, nursing services costs, as reimbursed within this chapter, shall not include costs of any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period.

(2) The department shall adopt through administrative rules a method for establishing a nursing services cost center rate consistent with the principles stated in this section.

(3) Utilizing regression or other statistical technique, the department shall determine a reasonable limit on facility nursing staff taking into account facility patient characteristics. For purposes of this section, facility nursing staff refers to registered nurses, licensed practical nurses and nursing assistants employed by the facility or obtained through temporary labor contract arrangements. Effective January 1, 1988, the hours associated with the training of nursing

assistants and the supervision of that training for nursing assistants shall not be included in the calculation of facility nursing staff. In selecting a measure of patient characteristics, the department shall take into account:

- (a) The correlation between alternative measures and facility nursing staff; and
- (b) The cost of collecting information for and computation of a measure.

If regression is used, the limit shall be set at predicted nursing staff plus 1.75 regression standard errors. If another statistical method is utilized, the limit shall be set at a level corresponding to 1.75 standard errors above predicted staffing computed according to a regression procedure. A regression calculated shall be effective for the entire biennium.

(4) No facility shall receive reimbursement for nursing staff levels in excess of the limit. However, nursing staff levels established under subsection (3) of this section shall not apply to the nursing services cost center reimbursement rate only for the pilot facility especially designed to meet the needs of persons living with AIDS as defined by RCW 70.24.017 and specifically authorized for this purpose under *the 1989 amendment to the Washington state health plan.

(5) Every two years when rates are set at the beginning of each new biennium, the department shall divide into two peer groups nursing facilities located in the state of Washington providing services to medicaid residents: (a) Those facilities located within a metropolitan statistical area as defined and determined by the United States office of management and budget or other applicable federal office and (b) those not located in such an area. The facilities in each peer group shall then be arrayed from lowest to highest by magnitude of per patient day adjusted nursing services cost from the prior report year, regardless of whether any such adjustments are contested by the nursing facility, and the median or fiftieth percentile cost for each peer group shall be determined. Nursing services rates for facilities within each peer group for the first year of the biennium shall be set at the lower of the facility's adjusted per patient day nursing services cost from the prior report period or the median cost for the facility's peer group plus twenty-five percent. This rate shall be reduced or inflated as authorized by RCW 74.46.420. However, the per patient day peer group median cost plus twenty-five percent limit shall not apply to the nursing services cost center reimbursement rate only for the pilot facility especially designed to meet the needs of persons living with AIDS as defined by RCW 70.24.017 and specifically authorized for this purpose under the 1989 amendment to the Washington state health plan.

(6) If a nursing facility is impacted by the limit authorized in subsection (5) of this section, it shall not receive a prospective rate in nursing services for July 1, 1993, less than the same facility's prospective rate in nursing services as of June 30, 1993, adjusted by any increase in the implicit price deflator for personal consumption expenditures, IPD index, as measured over the period authorized by RCW 74.46.420(3).

(7) A nursing facility's rate in nursing services for the second year of each biennium shall be that facility's rate as of July 1 of the first year of that biennium reduced or inflated as authorized by RCW 74.46.420. The alternating procedures prescribed in this section for a facility's two July

1 nursing services rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

(8) Median costs for peer groups shall be calculated initially as provided in this chapter on the basis of the most recent adjusted cost information available to the department prior to the calculation of the new rate for July 1 of the first fiscal year of each biennium, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs for peer groups shall be recalculated as provided in this chapter on the basis of the most recent adjusted cost information available to the department on October 31 of the first fiscal year of each biennium, and shall apply retroactively to the prior July 1 rate, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(9) The department is authorized to determine on a systematic basis facilities with unmet patient care service needs. The department may increase the nursing services cost center prospective rate for a facility beyond the level determined in accordance with **subsection (6) of this section if the facility's actual and reported nursing staffing is one standard error or more below predicted staffing as determined according to the method selected pursuant to subsection (3) of this section and the facility has unmet patient care service needs: PROVIDED, That prospective rate increases authorized by this subsection shall be funded only from legislative appropriations made for this purpose during the periods authorized by such appropriations or other laws and the increases shall be conditioned on specified improvements in patient care at such facilities.

(10) The department shall establish a method for identifying patients with exceptional care requirements and a method for establishing or negotiating on a consistent basis rates for such patients.

(11) The department, in consultation with interested parties, shall adopt rules to establish the criteria the department will use in reviewing any requests by a contractor for a prospective rate adjustment to be used to increase the number of nursing staff. These rules shall also specify the time period for submission and review of staffing requests: PROVIDED, That a decision on a staffing request shall not take longer than sixty days from the date the department receives such a complete request. In establishing the criteria, the department may consider, but is not limited to, the following:

(a) Increases in debility levels of contractors' residents determined in accordance with the department's assessment and reporting procedures and requirements utilizing the minimum data set;

(b) Staffing patterns for similar facilities in the same peer group;

(c) Physical plant of contractor; and

(d) Survey, inspection of care, and department consultation results. [1993 sp.s. c 13 § 12; 1991 sp.s. c 8 § 16; 1990 § 1; 1987 c 476 § 5; 1983 1st ex.s. c 67 § 24.]

Reviser's note: *(1) The state health plan, developed by the governor under RCW 70.38.065, expired on June 30, 1990. See RCW 70.38.919.

** (2) Subsection (5) of this section was intended, but inadvertently not corrected, during the legislative process of enacting 1993 sp.s. c 13.

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

74.46.490 Food cost center reimbursement rate. (1)

The food cost center shall include for reporting purposes all costs for bulk and raw food and beverages purchased for the dietary needs of medical care recipients.

(2) Every two years when rates are set at the beginning of each new biennium, the department shall divide into two peer groups nursing facilities located in the state of Washington providing services to medicaid residents: (a) Those facilities located within a metropolitan statistical area as defined and determined by the United States office of management and budget or other applicable federal office and (b) those not located in such an area. The facilities in each peer group shall then be arrayed from lowest to highest by magnitude of per patient day adjusted food cost from the prior report year, regardless of whether any such adjustments are contested by the nursing facility, and the median or fifth percentile cost for each peer group shall be determined. Food rates for facilities within each peer group for the first year of the biennium shall be set at the lower of the facility's adjusted per patient day food cost from the prior report period or the median cost for the facility's peer group plus twenty-five percent. This rate shall be reduced or inflated as authorized by RCW 74.46.420.

(3) A nursing facility's food rate for the second year of each biennium shall be that facility's rate as of July 1 of the first year of that biennium reduced or inflated as authorized by RCW 74.46.420. The alternating procedures prescribed in this section for a facility's two July 1 food rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

(4) Median costs for peer groups shall be calculated initially as provided in this chapter on the basis of the most recent adjusted cost information available to the department prior to the calculation of the new rate for July 1 of the first fiscal year of each biennium, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs for peer groups shall be recalculated as provided in this chapter on the basis of the most recent adjusted cost information available to the department on October 31 of the first fiscal year of each biennium, and shall apply retroactively to the prior July 1 rate, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not. [1993 sp.s. c 13 § 13; 1983 1st ex.s. c 67 § 25; 1981 1st ex.s. c 2 § 6; 1980 c 177 § 49.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 18.51.010.

74.46.500 Administrative cost center reimbursement rate. (1)

The administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs whether facility on-site or allocated in accordance with a department-approved joint-cost allocation methodology. Such costs shall be identical to the cost report line item costs categorized under "general and administrative" in the "administration and operations" combined cost

Nursing Home Auditing and Cost Reimbursement Act of 1980

74.46.500

center existing prior to January 1, 1993, except for nursing supplies and purchased medical records.

(2) Every two years when rates are set at the beginning of each new biennium, the department shall divide into two peer groups nursing facilities located in the state of Washington providing services to medicaid residents: (a) Those facilities located within a metropolitan statistical area as defined and determined by the United States office of management and budget or other applicable federal office and (b) those not located in such an area. The facilities in each peer group shall then be arrayed from lowest to highest by magnitude of per patient day adjusted administrative cost from the prior report year, regardless of whether any such adjustments are contested by the nursing facility, and the median or fiftieth percentile cost for each peer group shall be determined. Administrative rates for facilities within each peer group for the first year of the biennium shall be set at the lower of the facility's adjusted per patient day administrative cost from the prior report period or the median cost for the facility's peer group plus ten percent. This rate shall be reduced or inflated as authorized by RCW 74.46.420.

(3) A nursing facility's administrative rate for the second year of each biennium shall be that facility's rate as of July 1 of the first year of that biennium reduced or inflated as authorized by RCW 74.46.420. The alternating procedures prescribed in this section for a facility's two July 1 administrative rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

(4) Median costs for peer groups shall be calculated initially as provided in this chapter on the basis of the most recent adjusted cost information available to the department prior to the calculation of the new rate for July 1 of the first fiscal year of each biennium, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs for peer groups shall be recalculated as provided in this chapter on the basis of the most recent adjusted cost information available to the department on October 31 of the first fiscal year of each biennium, and shall apply retroactively to the prior July 1 rate, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not. [1993 sp.s. c 13 § 14; 1992 c 182 § 1; 1980 c 177 § 50.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

See E25HB 1408, Sec 107
74.46.505 Operational cost center. (1) The operational cost center shall include for cost reporting purposes all allowable costs of the daily operation of the facility not included in nursing services and related care, food, administrative, or property costs, whether such costs are facility on-site or allocated in accordance with a department-approved joint-cost allocation methodology.

(2) Every two years when rates are set at the beginning of each new biennium, the department shall divide into two peer groups nursing facilities located in the state of Washington providing services to medicaid residents: (a) Those facilities located within a metropolitan statistical area as defined and determined by the United States office of management and budget or other applicable federal office and (b) those not located in such an area. The facilities in

each peer group shall then be arrayed from lowest to highest by magnitude of per patient day adjusted operational cost from the prior report year, regardless of whether any such adjustments are contested by the nursing facility, and the median or fiftieth percentile cost for each peer group shall be determined. Operational rates for facilities within each peer group for the first year of the biennium shall be set at the lower of the facility's adjusted per patient day operational cost from the prior report period or the median cost for the facility's peer group plus twenty-five percent. This rate shall be reduced or inflated as authorized by RCW 74.46.420.

(3) A nursing facility's operational rate for the second year of each biennium shall be that facility's rate as of July 1 of the first year of that biennium reduced or inflated as authorized by RCW 74.46.420. The alternating procedures prescribed in this section for a facility's two July 1 operational rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

(4) Median costs for peer groups shall be calculated initially as provided in this chapter on the basis of the most recent adjusted cost information available to the department prior to the calculation of the new rate for July 1 of the first fiscal year of each biennium, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs for peer groups shall be recalculated as provided in this chapter on the basis of the most recent adjusted cost information available to the department on October 31 of the first fiscal year of each biennium, and shall apply retroactively to the prior July 1 rate, regardless of whether the adjustments are contested or subject to pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not. [1993 sp.s. c 13 § 15.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

See E25HB 1408, Sec 108
74.46.510 Property cost center. (1) The property cost center rate for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to RCW 74.46.310 through 74.46.380, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, as provided in RCW 74.46.180, by the total patient days for the facility in the prior period. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the property cost center rate shall be adjusted to anticipated patient day level.

(2) A nursing facility's property rate shall be rebased annually, effective July 1, in accordance with this section regardless of whether the rate is for the first or second year of the biennium.

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary. [1993 sp.s. c 13 § 16; 1980 c 177 § 51.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Effective dates—1980 c 177: See RCW 74.46.001.

E25HB 1908, Sec 109

74.46.530 Return on investment rate—Review. (1) The department shall establish for each medicaid nursing facility a return on investment rate composed of two parts: A financing allowance and a variable return allowance. A facility's return on investment rate shall be rebased annually, effective July 1, in accordance with this section, regardless of whether the rate is for the first or second year of the biennium.

(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by .10, and dividing by the contractor's total patient days from the most recent cost report period. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the financing and variable return allowances shall be adjusted to the anticipated patient day level.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in RCW 74.46.330, 74.46.350, 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land shall be the buyer's capitalized cost.

For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to RCW 74.46.360(1).

(c) In determining the variable return allowance:

(i) Every two years at the start of each new biennium, the department, without utilizing peer groups, will first rank all facilities in numerical order from highest to lowest according to their per patient day adjusted allowable costs for nursing services, food, administrative, and operational costs combined for the previous cost report period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than four percent, by the sum of the facility's nursing services, food, administrative, and operational rate components. The percentage amounts will be based on groupings of facilities according to the rankings prescribed in (i) of this subsection (1)(c). The percentages calculated and assigned will remain the same for the next variable return allowance period in the second year of the biennium. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(d) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility, and shall be added to the prospective rates of

each contractor as determined in RCW 74.46.450 through 74.46.510.

(e) In the case of a facility which was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to RCW 74.46.510, is more than the return on investment rate determined according to subsection (1)(d) of this section, the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1982, as determined by the department of general administration through an appraisal procedure, less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under subsection (1)(e)(i) of this section and the variable allowance shall be compared to the annualized lease payment, plus any interest and depreciation associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to RCW 74.46.510. The lesser of the two amounts shall be called the alternate return on investment rate.

(iii) The return on investment rate determined according to subsection (1)(d) of this section or the alternate return on investment rate, whichever is greater, shall be the return on investment rate for the facility and shall be added to the prospective rates of the contractor as determined in RCW 74.46.450 through 74.46.510.

(f) In the case of a facility which was leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease, the treatment provided in subsection (1)(e) of this section shall be applied except that in the case of renewals or extensions made subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(2) Each biennium, beginning in 1985, the secretary shall review the adequacy of return on investment rates in relation to anticipated requirements for maintaining, reducing, or expanding nursing care capacity. The secretary shall report the results of such review to the legislature and make recommendations for adjustments in the return on investment rates utilized in this section, if appropriate. [1993 sp.s. c 13 § 17; 1991 sp.s. c 8 § 17; 1985 c 361 § 17; 1983 1st ex.s. c 67 § 28; 1981 1st ex.s. c 2 § 7; 1980 c 177 § 53.]

Effective date—1993 sp.s. c 13: See note following RCW 74.46.020.

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

Savings—1985 c 361: See note following RCW 74.46.020.

Effective dates—1983 1st ex.s. c 67; 1980 c 177: See RCW 74.46.901.

Nursing Home A

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 19.51.010.

74.46.540 Effect of legislative revision. If the legislature changes the methodology of property reimbursement established in *this 1980 act, no affected contractor shall be entitled thereafter to receive such benefits as a matter of contractual right. [1980 c 177 § 54.]

*Reviser's note: For codification of sections of "this 1980 act" [1980 c 177], see Codification Tables, Volume 0.

74.46.550 Reimbursement rates not to exceed customary charges. The reimbursement rates shall not exceed the contractor's customary charges to the general public for comparable services. [1983 1st ex.s. c 67 § 29; 1980 c 177 § 55.]

See E 25 HB 1908, Sec 110
74.46.560 Notification of rates. The department will notify each contractor in writing of its prospective reimbursement rates by the effective date of the rates. Unless otherwise specified at the time it is issued, the rate will be effective from the first day of the month in which it is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with RCW 74.46.780, it will be effective as of the date the appealed rate became effective. [1983 1st ex.s. c 67 § 30; 1980 c 177 § 56.]

See E 25 HB 1908, Sec 111
74.46.570 Adjustments required due to errors or omissions. (1) Prospective rates are subject to adjustment by the department as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing of each adjustment and of the effective date of the adjustment, and of any amount due to the department or to the contractor as a result of the rate adjustment.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by a certification signed by the licensed administrator of the nursing facility and a written justification explaining why the amendment is necessary. The certification and justification shall meet such criteria as are adopted by the department. Such amendments may be used to revise a prospective rate but shall not be used to revise a settlement if submitted after commencement of the field audit. All changes determined to be material by the department shall be subject to field audit. If changes are found to be incorrect or otherwise unacceptable, any rate adjustment based thereon shall be null and void and resulting payments or payment increases shall be subject to refund.

(3) The contractor shall pay an amount owed the department resulting from an error or omission, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment, unless the contractor contests the department's determination in accordance with the procedures set forth in RCW 74.46.780. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(4) The department shall pay any amount owed the contractor as a result of a rate adjustment within thirty days after the contractor is notified of the rate adjustment.

(5) No adjustments will be made to a rate more than one hundred twenty days after the final audit narrative and summary for the period the rate was effective is sent to the contractor or, if no audit is held, more than one hundred twenty days after the preliminary settlement becomes the final settlement, except when a settlement is reopened as provided in RCW 74.46.170(3). [1983 1st ex.s. c 67 § 31; 1980 c 177 § 57.]

74.46.580 Public review of rate setting. The department shall provide all interested members of the public with an opportunity to review and comment on the proposed rate-setting factors, indices, measures, and guidelines, consistent with federal requirements. [1983 1st ex.s. c 67 § 32; 1980 c 177 § 58.]

74.46.590 Public disclosure of rate-setting methodology. In accordance with the provisions of RCW 74.46.820, the department will make available to the public full information regarding its factors, indices, measures, and guidelines. [1980 c 177 § 59.]

PART F BILLING/PAYMENT

74.46.600 Billing period. A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month. [1980 c 177 § 60.]

74.46.610 Billing procedure. (1) A contractor shall bill the department each month by completing and returning a facility billing statement as provided by the department which shall include, but not be limited to:

- (a) Billing by cost center;
- (b) Total patient days; and
- (c) Patient days for medical care recipients.

The statement shall be completed and filed in accordance with rules and regulations established by the secretary.

(2) A facility shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient under rules established under chapter 74.09 RCW has been received by the facility. However a facility may bill and shall be reimbursed for all medical care recipients referred to the facility by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility.

(3) Billing shall cover the patient days of care. [1983 1st ex.s. c 67 § 33; 1980 c 177 § 61.]

74.46.620 Payment. (1) The department will reimburse a contractor for service rendered under the facility contract and billed in accordance with RCW 74.46.610.

(2) The amount paid will be computed using the appropriate rates assigned to the contractor.

(3) For each recipient, the department will pay an amount equal to the appropriate rates, multiplied by the

number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care as set forth by RCW 74.46.630. [1980 c 177 § 62.]

74.46.630 Charges to patients. (1) The department will notify a contractor of the amount each medical care recipient is required to pay for care provided under the contract and the effective date of such required contribution. It is the contractor's responsibility to collect that portion of the cost of care from the patient, and to account for any authorized reduction from his or her contribution in accordance with rules and regulations established by the secretary.

(2) If a contractor receives documentation showing a change in the income or resources of a recipient which will mean a change in his or her contribution toward the cost of care, this shall be reported in writing to the department within seventy-two hours and in a manner specified by rules and regulations established by the secretary. If necessary, appropriate corrections will be made in the next facility statement, and a copy of documentation supporting the change will be attached. If increased funds for a recipient are received by a contractor, an amount determined by the department shall be allowed for clothing and personal and incidental expense, and the balance applied to the cost of care.

(3) The contractor shall accept the reimbursement rates established by the department as full compensation for all services provided under the contract, certification as specified by Title XIX, and licensure under chapter 18.51 RCW. The contractor shall not seek or accept additional compensation from or on behalf of a recipient for any or all such services. [1980 c 177 § 63.]

See E25HB 1908, Sec 112
74.46.640 Suspension of payments. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extension. Payments will be released as soon as a properly completed report is received;

(b) State auditors, department auditors, or authorized personnel in the course of their duties are refused access to a nursing home or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided;

(c) A refund in connection with a settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund; and

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is provided to the contractor, stating the reason therefor. [1983 1st ex.s. c 67 § 34; 1980 c 177 § 64.]

74.46.650 Termination of payments. All payments to a contractor will end no later than sixty days after any of the following occurs:

(1) A contract expires, is terminated or is not renewed;

[Title 74 RCW—page 134]

(2) A facility license is revoked; or

(3) A facility is decertified as a Title XIX facility; except that, in situations where the secretary determines that residents must remain in such facility for a longer period because of the resident's health or safety, payments for such residents shall continue. [1980 c 177 § 65.]

PART G ADMINISTRATION

74.46.660 Conditions of participation. In order to participate in the prospective cost-related reimbursement system established by this chapter, the person or legal organization responsible for operation of a facility shall:

(1) Obtain a state certificate of need and/or federal capital expenditure review (section 1122) approval pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR where required;

(2) Hold the appropriate current license;

(3) Hold current Title XIX certification;

(4) Hold a current contract to provide services under this chapter;

(5) Comply with all provisions of the contract and all application regulations, including but not limited to the provisions of this chapter; and

(6) Obtain and maintain medicare certification, under Title XVIII of the social security act, 42 U.S.C. Sec. 1395, as amended, for a portion of the facility's licensed beds. Until June 1, 1993, the department may grant exemptions from the medicare certification requirements of this subsection to nursing facilities that are making good faith efforts to obtain medicare certification. [1992 c 215 § 1; 1991 sp.s. c 8 § 13; 1980 c 177 § 66.]

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

74.46.670 Projected budget for new contractors. (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract will become effective.

(2) The projected budget shall cover the contractor's first twelve months of operation from the date the contractor will enter the program. It shall be prepared on forms and in accordance with rules and regulations established by the secretary. [1983 1st ex.s. c 67 § 35; 1980 c 177 § 67.]

74.46.680 Change of ownership. (1) On the effective date of a change of ownership the department's contract with the old owner shall be terminated. The old owner shall give the department sixty days' written notice of such termination. When certificate of need and/or section 1122 approval is required pursuant to chapter 70.38 RCW and Part 100, Title 42 CFR, for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need and/or section 1122 approval shall be obtained before the old owner submits a notice of termination.

(2) If the new owner desires to participate in the cost-related reimbursement system, it shall meet the conditions specified in RCW 74.46.660 and shall submit a projected budget in accordance with RCW 74.46.670 no later than sixty days before the date of the change of ownership. The

(1994 Ed.)

Nursing Home Auditing and Cost Reimbursement Act of 1980

74.46.080

facility contract with the new owner shall be effective as of the date of the change of ownership. [1985 c 361 § 2; 1980 c 177 § 68.]

Savings—1985 c 361: See note following RCW 74.46.020.

See E2SHB 1908, Sec 113
74.46.690 Termination of contract—Settlement. (1)

When a facility contract is terminated for any reason, the old contractor shall submit final reports as required by RCW 74.46.040.

(2) Upon notification of a contract termination, the department shall determine by preliminary or final settlement calculations the amount of any overpayments made to the contractor, including overpayments disputed by the contractor. If preliminary or final settlements are unavailable for any period up to the date of contract termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department.

(3) The old contractor shall provide security, in a form deemed adequate by the department, in the amount of determined and estimated overpayments, whether or not the overpayments are the subject of good faith dispute. Security shall consist of:

- (a) Withheld payments due the contractor; or
- (b) A surety bond issued by a bonding company acceptable to the department; or
- (c) An assignment of funds to the department; or
- (d) Collateral acceptable to the department; or
- (e) A purchaser's assumption of liability for the prior contractor's overpayment; or
- (f) Any combination of (a), (b), (c), (d), or (e) of this subsection.

(4) A surety bond or assignment of funds shall:

(a) Be at least equal in amount to determined or estimated overpayments, whether or not the subject of good faith dispute, minus withheld payments;

(b) Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;

(c) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies: PROVIDED, That the bond or assignment shall initially be for a term of five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining overpayment in dispute;

(d) Provide that the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the auditor; and

(e) Provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond and assignment, shall be paid to the department if the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(5) The department shall release any payment withheld as security if alternate security is provided under subsection

(3) of this section in an amount equivalent to determined and estimated overpayments.

(6) If the total of withheld payments, bonds, and assignments is less than the total of determined and estimated overpayments, the unsecured amount of such overpayments shall be a debt due the state and shall become a lien against the real and personal property of the contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) The contractor shall file a properly completed final cost report in accordance with the requirements of this chapter, which shall be audited by the department. A final settlement shall be determined within ninety days following completion of the audit process, including any administrative review of the audit requested by the contractor.

(8) Following determination of settlement for all periods, security held pursuant to this section shall be released to the contractor after overpayments determined in connection with final settlement have been paid by the contractor. If the contractor contests the settlement determination in accordance with RCW 74.46.170, the department shall hold the security, not to exceed the amount of estimated unrecovered overpayments being contested, pending completion of the administrative appeal process.

(9) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(10) If a contract is terminated solely in order for the same owner to contract with the department to deliver services to another classification of medical care recipients at the same facility, the contractor is not required to submit final cost reports, and security shall not be required. [1985 c 361 § 3; 1983 1st ex.s. c 67 § 36; 1980 c 177 § 69.]

Savings—1985 c 361: See note following RCW 74.46.020.

PART H PATIENT TRUST FUNDS

74.46.700 Resident personal funds—Records—Rules. Each nursing home shall establish and maintain, as a service to the resident, a bookkeeping system incorporated into the business records for all resident moneys entrusted to the contractor and received by the facility for the resident.

The department shall adopt rules to ensure that resident personal funds handled by the facility are maintained by each nursing home in a manner that is, at a minimum, consistent with federal requirements. [1991 sp.s. c 8 § 19; 1980 c 177 § 70.]

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

PART I MISCELLANEOUS

See E2SHB 1908, Sec 114
74.46.770 Contractor challenges—Laws, department decisions, etc. (1) If a contractor wishes to contest the way in which a rule or contract provision relating to the prospective cost-related reimbursement system was applied to the